



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6021-N-01]

Proposed Changes to the Methodology Used for Estimating Fair Market Rents

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Proposed Material Changes for Estimation of Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. The primary uses of FMRs are to determine payment standards for the Housing Choice Voucher (HCV) program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solutions Grants program. HUD also uses FMRs in the calculation of maximum award amounts for Continuum of Care grantees and in the calculation of flat rents for Public Housing units. In furtherance of that effort, HUD proposes several methodological changes in this notice and seeks public comment on the proposed changes.

DATES: Comment Due Date: **[Insert date 30 days after date of publication in the FEDERAL REGISTER].**

ADDRESSES: HUD invites interested persons to submit comments regarding the proposed changes to the calculation of the FMRs to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0001. Communications must refer to the above docket number and title

and should contain the information specified in the “Request for Comments” section. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications regarding this notice submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security

measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Questions on this notice may be addressed to Marie L. Lihn or Peter B. Kahn of the Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, HUD Headquarters, 451 7th Street, SW, Room 8208, Washington, DC 20410; telephone number 202-402-2409 (this is not a toll-free number), or they may be reached at emad-hq@hud.gov. Persons with hearing or speech impairments may access HUD numbers through TTY by calling the Federal Relay Service at 800-877-8339 (toll-free). For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800-245-2691 (toll-free) or access the information on the HUD USER website <https://www.huduser.gov/portal/datasets/fmr.html>.

Electronic Data Availability. This Federal Register notice will be available electronically from the HUD User page at <https://www.huduser.gov/portal/datasets/fmr.html>. Federal Register notices also are available electronically from <https://www.federalregister.gov/>, the U.S. Government Printing Office website.

Complete documentation of the impact of these methodology changes and calculation of hypothetical FY 2017 FMRs¹ with these changes are available at <https://www.huduser.gov/>

¹ HUD will provide a set of FY 2017 FMRs calculated with all the methodological changes proposed in this notice for the public to review. The FMRs with all the proposed changes will be referred to as FY 2017 hypothetical FMRs.

portal/datasets/fmr.html. Small Area FMRs for all metropolitan FMR areas incorporating these material changes in methodology have also been calculated and are available at: <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>. Changes to FMR calculations prescribed in the Small Area FMR rule (81 FR 80567) are not incorporated into the calculation of hypothetical FY 2017 FMRs.

SUPPLEMENTARY INFORMATION

I. Background

Section 8 of the United States Housing Act of 1937 (USHA) (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by Fair Market Rents (FMRs) established by HUD for different geographic areas. In the Housing Choice Voucher (HCV) program, the FMR is the basis for determining the “payment standard amount” used to calculate the maximum monthly subsidy for an assisted family. See 24 CFR 982.503. HUD also uses the FMRs to determine initial renewal rents for some expiring project-based Section 8 contracts, initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solution Grants program, calculation of maximum award amounts for Continuum of Care grantees, and calculation of flat rents in Public Housing units. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utility costs) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities and is set at the 40th percentile of the distribution of gross rents for recent movers. HUD’s FMR calculations represent HUD’s best effort to estimate the 40th percentile gross rents paid by recent movers into standard quality units in each FMR area.

In recent years, commenters have expressed a number of concerns about FMRs. Some have pointed out that FMRs are a primary operating parameter in the HCV program and that extreme year-to-year fluctuations in FMRs can cause difficulties in program operations. Additionally, concerns have been raised that the FMRs are either not timely enough or not based on enough local information. HUD is proposing several changes to the manner in which HUD calculates FMRs in order to improve the FMR estimates and to address the concerns of commenters noted at the beginning of this paragraph.

II. Procedures for Developing FMRs

Section 8(c)(1) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c)(1)(B) as amended by the Housing Opportunities Through Modernization Act of 2016 (HOTMA) (Pub. L. 114–201, approved July 29, 2016), requires that HUD publish for comment in the **Federal Register** a notice of proposed material changes in the methodology for estimating FMRs and a notice containing HUD’s final decisions regarding such proposed substantial methodological changes and responses to public comments.

On August 26, 2016, HUD announced the publication of the FY 2017 FMRs, requested comments on the FY 2017 FMRs, and requested public comment on what should be considered “material changes” in FMR estimation methods for the purpose of triggering public notice and comment under HOTMA (81 FR 58952). Following a review of public comment on what should be considered “material changes”, HUD determined that initially *any* change in FMR calculation methods should be subject to public comment. HUD, thus, responded to the comments in a notice published March 30, 2017, stating that HUD would not take a position on what FMR changes would be considered material and that HUD would initially request comment on all

FMR method changes (82 FR 15711). While HUD recognizes that year-to-year fluctuations in FMRs may cause operational difficulties in program operations, HUD seeks to improve the FMR calculation methods, using as much local information as possible while trying to preserve stability in the estimates. In an effort to address these concerns and recognizing that addressing one issue may impact another issue, HUD proposes several methodological changes and requests public comments on those changes through this notice, in compliance with HOTMA.

III. FMR Methodology Changes

This section provides a brief overview of how HUD computed the FY 2017 FMRs and three proposed changes to this methodology.

To calculate the FY 2017 FMRs, HUD assigned each area a two-bedroom standard quality base rent from the 2010-2014 5-year American Community Survey (ACS) tabulations. Each base rent was updated with a recent mover adjustment factor calculated from the 1-year 2014 ACS data. The 2014 ACS recent mover data is adjusted to be “as of” FY 2017 using local or regional Consumer Price Index (CPI)-measured changes in gross rents measured between 2014 and 2015 and a nationally forecasted trend factor measuring the expected growth in gross rents from 2015 to FY 2017. For complete information on how HUD determines FMR areas, and on how HUD derives each area’s FY 2017 FMR, see the online documentation at https://www.huduser.gov/portal/datasets/fmr.html#2017_query.

The following is a summary of the two general changes to the calculation methods HUD is proposing to incorporate into the calculation of FY 2018 FMRs and a third change specific to the calculation of Small Area FMRs.

(1) The first method change is in the manner in which HUD selects American Community Survey (ACS) estimates for use in the calculation of FMRs. Currently, HUD uses an

ACS estimate if the error of the estimate is less than half the size of the estimate itself. HUD is proposing to require that each ACS estimate used in the calculation of FMRs be based on at least one hundred (100) survey responses. In other words, this notice proposes to couple the error ratio criterion with an additional review of the number of survey observations supporting the ACS estimate. If the survey data does not meet both criteria, HUD will use an average of the three most recent years of data.

(2) The second method change focuses on the way that HUD calculates the “recent mover factor.” Currently, HUD calculates the “recent mover factor” based on a geographic area that is sometimes larger than an FMR area when the two-bedroom recent mover rents are not statistically reliable. HUD is proposing the use of “all-bedroom” recent mover rents as the basis for the recent mover factor when the two-bedroom recent mover rents are not statistically reliable (i.e. 100 or more observations and a margin of error that is smaller than half of the estimate itself) before moving to a larger encompassing geography for the recent mover factor.

(3) Finally, HUD is proposing to use the gross rent estimates calculated by ZIP Code Tabulation Areas (ZCTAs), where statistically reliable, to estimate Small Area FMRs (SAFMRs) directly rather than the “ratio” method HUD used in FY 2017 and earlier SAFMR estimates.

1. FY 2018 FMR Proposed Changes

A. Base Year Rent Changes

Since FY 2012, HUD has used the 5-year ACS data to determine base rents for most FMR areas. HUD used 2010-2014 ACS data, released in December 2015, in the FY 2017 FMR calculations. HUD evaluates the statistical validity of the ACS data before using the information in the calculation of FMRs. HUD proposes to update these statistical reliability criteria.

Previously, HUD used ACS estimates for two-bedroom unit rents within the FMR area where the margin of error of the estimate was less than half the size of the estimate itself (i.e., a margin of error of less than 50 percent). HUD now proposes to couple this “margin of error” test with an additional test based on the number of survey observations supporting the estimate. The Census Bureau does not provide HUD with an exact count of the number of observations supporting the ACS estimate; rather, the Census Bureau provides HUD with categories of the number of survey responses underlying the estimate, including whether the estimate is based on more than 100 observations. Using these categories, HUD proposes that ACS rent estimates must be based on at least 100 observations in order to be used as base rents.

For areas in which the 5-year ACS data for two-bedroom, standard quality gross rents do not pass the statistical reliability tests (i.e., have a margin of error greater than 50 percent or fewer than 100 observations), HUD will use an average of the base rents over the three most recent years (provided that there is data available for at least two of these years),² or if such data is not available, using the two-bedroom rent data within the next largest geographic area, which for a non-metropolitan area would be the state non-metro area rent data.

B. Recent Mover Factor Changes

HUD is proposing changes to the calculation of the recent mover factor that include a change to the statistical reliability assessment of ACS recent mover data (consistent with the change for base rents) and a change in the data used when the number of “two-bedroom” observations within the FMR area is insufficient. The following describes the current process for calculating the recent mover factor, and the proposed revisions.

² Using FY 2017 as an example, the three years of ACS data in question are 2012, 2013 and 2014. The 2012 data are adjusted to be denominated in 2014 dollars using the growth in CPI-based gross rents measured between 2012 and 2014. Similarly, the 2013 gross rent data is adjusted to 2014 denominated dollars using the growth in CPI-based gross rents measured between 2013 and 2014.

HUD historically based FMRs on gross rent data for recent movers (those who have moved into their current residence in the last 24 months). However, due to the way in which the Census Bureau constructs the 5-year ACS data, HUD developed a new methodology for using recent mover data to calculate FMRs in FY 2012. As of FY 2012, HUD assigns all areas a base rent, which is the two-bedroom, standard quality 5-year ACS gross rent estimate, and then applies a recent mover factor in order to calculate recent mover gross rents and publish them in accordance with 24 CFR 888.113. HUD calculates the recent mover factor as the ratio of the 1-year recent mover gross rent to the 5-year standard quality gross rent for the recent mover factor area. HUD does not allow recent mover factors to reduce the standard quality base rent; therefore, if the 5-year standard quality rent is larger than the comparable 1-year recent mover rent, the recent mover factor is set to 1. Applying the recent mover factor to the standard quality base rent produces a recent mover two-bedroom gross rent for the FMR area that is “as of” the most recent ACS year.

In general, HUD has used the 1-year ACS-based two-bedroom recent mover gross rent estimate from the smallest geographic area encompassing the FMR area for which the estimate is statistically reliable to calculate the recent mover factor.³ HUD calculates some areas’ recent mover factors using data collected solely within the FMR area. However, HUD currently bases other areas’ recent mover factors on larger geographic areas if this is necessary to obtain statistically reliable estimates.

When data from a larger geographic unit is required, data from progressively larger areas is considered until a statistically reliable result is obtained. The order of consideration depends on the type of area for which the recent mover factor is being calculated. For metropolitan FMR

³ HUD currently assesses recent mover estimates to be statistically reliable if the margin of error of the estimate is smaller than half the size of the estimate itself (i.e., less than 50%).

areas that are subareas of larger metropolitan areas, the order is the FMR area, the metropolitan area, the aggregated metropolitan parts of the state, and the entire state. Metropolitan areas that are not divided follow a similar progression from FMR area data, to data from the aggregated metropolitan parts of the state, to state-level data. In non-metropolitan areas, HUD bases the recent mover factor on data from within the FMR area, or from the aggregated non-metropolitan parts of the state, or if that is not available, from the whole state.

HUD proposes to modify the test of statistical reliability for ACS recent mover data in the same manner as the proposed change discussed under base rents. In addition, when an FMR area does not have statistically reliable two-bedroom data, HUD proposes that before using data from a larger geographic area to calculate the recent mover factor, HUD would first check to see if the data aggregated across “all-bedroom” count units is statistically reliable for the FMR area. If so, HUD will use the “all-bedroom” data to calculate the recent mover factor instead of moving to the next larger geography. Incorporating “all-bedroom” rents into the recent mover factor calculation when statistically reliable two-bedroom data is not available preserves the use of local information to the greatest extent possible. However, where statistically reliable “all-bedroom” data is not available, HUD will continue to use data from the larger geographical area(s), as described above.

2. Small Area Fair Market Rents Methodology Changes

Currently, HUD calculates Small Area FMRs⁴ using a rent ratio determined by dividing the median gross rent across all bedrooms for the Small Area ZCTAs by the similar median gross rent for the parent metropolitan area of the ZIP code. In order to maintain stability in the rent ratio, HUD averages the three most current rent ratios and multiplies this averaged rent ratio by

⁴ More information regarding the history of Small Area FMRs, including information concerning the Small Area FMR Demonstration is available at: <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>

the most recent two-bedroom FMR for the parent metropolitan area. HUD is proposing updates to the calculation of Small Area FMRs that are consistent with the other proposed methodology changes in this Notice.

A. Alternative to the Rent Ratio Method

In order to use more local data, HUD is proposing to calculate Small Area FMRs directly from the standard quality gross rents provided to HUD by the Census Bureau for ZCTAs, when such data is statistically reliable, instead of using the current rent ratio calculation. For each ZCTA with statistically reliable gross rent estimates, using the expanded test of statistical reliability proposed elsewhere in this notice (i.e., estimates with margins of error ratios below 50 percent and based on at least 100 observations), HUD will calculate a two-bedroom equivalent 40th percentile gross rent using either one-, two-, or three-bedroom gross rent data. The order preference for using the gross rent distribution data would be: two-bedroom gross rents, one-bedroom gross rents, and three-bedroom gross rents. If either the one-bedroom or three-bedroom gross rent data is used because the two-bedroom gross rent data is not statistically reliable, the one-bedroom or three-bedroom 40th percentile gross rent will be converted to a two-bedroom equivalent rent using the bedroom ratios for the ZCTA's parent metropolitan area. In order to add increased stability to these Small Area FMR estimates, HUD will average the latest three years of gross rent estimates.⁵ For ZCTAs without usable gross rent data, HUD will continue to calculate Small Area FMRs using the rent ratio method currently employed.

For ZCTAs relying on the rent ratio method (i.e., in small areas where the standard quality median gross rent is not statistically reliable), HUD will continue its current practice of

⁵ For example, for (hypothetical) FY 2017 FMRs using this methodology, HUD would average the gross rents from 2012, 2013 and 2014 5-Year ACS estimates. The 2012 and 2013 gross rent estimates would be adjusted to 2014 dollars using the metropolitan area's gross rent CPI adjustment factors.

substituting the median gross rent for the county containing the ZCTA in the numerator of the rent ratio calculation. The denominator remains the median gross rent for the ZCTA's parent metropolitan area (discussed below in section B). HUD will continue to multiply this rent ratio by the current two-bedroom rent for the entire metropolitan area containing the small area to generate the current year two-bedroom rent for the small area. HUD will continue to use a rolling-average of ACS data in calculating the Small Area FMR rent ratios. HUD believes coupling the most current data with previous years' data minimizes excessive year-to-year variability in Small Area FMR rent ratios due to sampling variance. Therefore, HUD will update the rent ratios each year.

B. ZCTA to Metropolitan Area Link

HUD is also proposing to change the linkage between a ZCTA and its parent metropolitan area. Currently, HUD links each ZCTA to its parent OMB-defined Core Based Statistical Area (CBSA). Going forward, HUD proposes to link each ZCTA to its published FMR area; that is, each ZCTA will be linked to its parent HUD Metropolitan Fair Market Rent Area (HMFA), if it exists. If no parent HUD FMR exists, the ZCTA will continue to be linked to its parent CBSA. This change is being proposed to take advantage of the more localized recent mover factors for subareas of OMB-defined metropolitan areas when available.

New, hypothetical FY 2017 Small Area FMRs incorporating all proposed calculation changes are available at <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>.

IV. Request for Public Comments on Changes

HUD continually strives to calculate FMRs that can serve as an effective program parameter while meeting the statutory requirement to use "the most recent available data." Therefore, HUD is requesting specific comments on these methodological changes, noting that

HUD's objectives are to: (1) limit volatility in annual FMR changes by adding an observation count requirement of at least 100, and by averaging prior year rent data when the new requirements for statistical reliability are not met; (2) improve the use of local data in calculating the recent mover factor by allowing the use of "all-bedroom" observations in the calculation of the recent mover factor before using data from a larger area; and (3) involve the use of more local data in the calculation of Small Area FMRs when possible, including by using ZCTA gross rents and making changes to the rent ratio calculation.

These methodology changes are not monodirectional; for example, the application of a stricter statistical significance test may lower rents in an area, while the use of the more local "all-bedroom" recent mover factor may increase rents in the same area.

In addition, HUD solicits comments on the possible effects of changes in FMR methodology on the achievement of fair housing and other civil rights goals and objectives, including increasing mobility of low-income persons to areas of high opportunity and lower poverty, and whether other methodological changes might better ensure appropriate fair housing outcomes.

HUD respectfully requests that comments filed in response to this notice remain focused on the proposed calculation changes. Hypothetical FY 2017 FMRs and Small Area FMRs, using these new methodology changes, are published at <https://www.huduser.gov/portal/datasets/fmr.html> and <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>, respectively.

V. Environmental Impact

This notice proposes changes in the way FMRs are calculated and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: May 4, 2017

Matthew E. Ammon
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